

SMALL BUSINESS LOAN GUARANTEE PROGRAM

**Request for Proposal
for
Trustee Services
2009**

State of California
Business, Transportation and Housing Agency

Release Date: March 16, 2009

STATE OF CALIFORNIA

ARNOLD SCHWARZENEGGER
Governor

Department of Alcoholic Beverage Control
Department of Corporations
Department of Financial Institutions
California Highway Patrol
California Housing Finance Agency
Department of Housing & Community Development
Department of Managed Health Care



DALE E. BONNER
Secretary

Office of Military & Aerospace Support
Department of Motor Vehicles
Office of the Patient Advocate
Department of Real Estate
Office of Real Estate Appraisers
Office of Traffic Safety
Department of Transportation

BUSINESS, TRANSPORTATION AND HOUSING AGENCY

March 16, 2009

TO ALL PROSPECTIVE BIDDERS:

The attached Request for Proposal (RFP) solicits trustee services for a three-year term in support of the California Business, Transportation and Housing Agency's overall goal to develop the State's economic base and increase job creation in California through the Small Business Loan Guarantee Program.

All proposals will be reviewed and evaluated as per Section V, Minimum Qualifications and Section VI, Selection Process and Evaluation Criteria of this RFP. Award of the contract shall be based on the lowest bid quote. Each proposer must submit a sealed bid and establish, in writing, the degree to which it has the capability to achieve or meet the stated requirements and work standards.

Respectfully,

KAREN KAWADA
Small Business Loan Guarantee Program

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The California Business, Transportation and Housing Agency requests proposals for the following purpose and in accordance with each of the terms and conditions in this Request for Proposal. The proposals will be evaluated by a committee within the Agency and scored according to responsiveness, as presented in Section VI, Selection Process and Evaluation Criteria.

A. Purpose

The purpose of this RFP is to solicit proposals that will lead to the selection of a prime contractor to provide trustee services for the Agency's Small Business Loan Guarantee Program reserve. The asset value of the reserve totaled to approximately \$35.1 million as of January 31, 2009.

B. Tentative Schedule

This tentative schedule may be altered at any time at the discretion of the Agency. All dates are in the year 2009 and times are in the Pacific Time Zone.

DESCRIPTION	DAY	DATE	TIME
1. RFP package released and mailed out	Monday	March 16	
2. Bidders' Conference (Optional)* (RSVP appreciated no later than 3 days before the conference)	Thursday	April 2	At 1:00 P.M.
3. Proposers' Written Questions due	Friday	April 10	By 5:00 P.M.
4. Submittal of Notice of Intent to Bid due	Friday	April 10	By 5:00 P.M.
5. Questions and Answer Summary to be mailed to potential proposers on or near	Monday	May 4	
6. Delivery due date of Proposal	Monday	May 25	By 5:00 P.M.
7. Minimum Qualifications Review		May 26-29	
8. Evaluation by Scoring Committee		June 1-19	
9. Oral Interviews		June 29-July 3	
10. Public Bid Opening	Tuesday	July 7	At 10.00 A.M.
11. Agency awards Contract and posts public notice of Intent to Award (allows for five-day protest period)		July 8-16	
12. Fully executed Contract in place		October 1	
13. Effective date of fully executed Contract		November 1	

* Bidders' Conference (Optional): Proposers are not required to attend the Bidders' Conference to submit a bid; attendance is optional. A Questions and Answer Summary developed from questions submitted in a written format either at the Bidders' Conference or other means by April 10 by 5:00 P.M. will be distributed to all organizations that submit a Notice of Intent to Bid (that is also due on April 10 by 5:00 P.M.). The Questions and Answer Summary may not include discussion details occurring at the Bidders' Conference in response to presented questions. Discussion details may influence the bid.

C. Duration

The contract between the Agency and the successful proposer is expected to be in place by October 1, 2009 with effective dates of November 1, 2009 through and including October 31, 2012 (three-years).

D. Fee

The total fee for services as trustee shall be calculated as a percentage of the funds in the Trust Account. This percentage includes all out-of-pocket costs, reimbursements and service fees. Services shall be rendered for the fiscal years of: 2009/10 (partial), 2010/11, 2011/12 and 2012/13 (partial), provided funding is appropriated in the Agency budget. Contract length will be dependent upon availability of funding, adequacy of previous performance, consistency of fee, and will be at the full discretion of the Agency.

E. Definition of Terms

This RFP contains the following terms, definitions and acronyms that have the following definitions:

1. "**Agency**," "**BTH**," and "**State**" means the California Business, Transportation and Housing Agency, an Agency duly elected or appointed, qualified and acting on behalf of the State of California for this RFP.
2. "**DGS**" means the State of California Department of General Services.
3. "**FDC**" means a California Small Business Financial Development Corporation.
4. "**Material Deviations**" means a deviation from a requirement that is deficient if the response is not in substantial accord with the RFP requirements, provides an advantage to one proposer over other proposers, or has a potentially significant effect on the delivery, quantity or quality of items proposed, amount paid to the vendor or on the cost to the Agency. Material deviations cannot be waived.
5. "**Program**" means the Small Business Loan Guarantee Program.
6. "**Proposer**" and "**Bidder**" (capitalized or lower case, singular or plural) means an organization responding to this RFP.
7. "**RFP**" means this Request for Proposal for Trustee Services 2009.
8. "**Shall**," "**must**," or "**will**" (except to indicate future tense) indicates a mandatory requirement in the RFP.
9. "**Should**" or "**may**" indicates desirable attributes or conditions, but are non-mandatory in nature. Deviation from, or omission of, such a desirable feature even if material, will not in itself cause rejection of the proposal.
10. "**Subcontractors**" means any party which the proposer wishes the Agency to include in its evaluation of the proposer's qualifications and capability must be labeled as a "partner" or "major subcontractor" (terms of similar nature are acceptable). All subcontractors are subject to the approval of the Agency.
 - a. Major subcontractors or partners are defined as businesses owned at least 51% by interests other than the proposer, and which will carry out major, critical portions of the Section IV, Scope of Work, in terms of responsibility, involvement and, in some instances, portions of the budget. These may be firms providing services or supplies. Major subcontractors operate under the direction of the proposer.
 - b. Minor subcontractors are defined as businesses executing less critical, less sensitive portions of Section IV, Scope of Work.

A. California Business, Transportation and Housing Agency

The California Business, Transportation and Housing Agency includes 13 departments and several economic development programs and commissions consisting of more than 44,000 employees and a budget of \$20 billion, a budget larger than that of almost half the states in the nation. The Agency's portfolio is one of the largest and most diverse in the State of California. Its operations address myriad issues that directly impact the state's economic vitality and quality of life including transportation, public safety, affordable housing, international trade, financial services, tourism, and managed health care.

The Agency oversees programs that plan, build and maintain California's transportation systems that ensure efficient and fair markets for the real estate industry and programs that assist state and community efforts to expand the availability of affordable housing and employment opportunities through commerce and economic development programs for a growing population. The Small Business Loan Guarantee Program assists the Agency towards achieving its goals in these areas.

The Agency also regulates managed health care plans, banking and the financial and securities industries as well as contributes to public safety through the law enforcement activities of the California Highway Patrol and the Department of Alcoholic Beverage Control.

B. Small Business Loan Guarantee Program

The Small Business Loan Guarantee Program began in 1969 under the Small Business Development Corporation Law (California Corporations Code, Section 14000 et seq.) and provides financial assistance to small businesses. Subsequent amendments to the law provided for the formation of non-profit Small Business Financial Development Corporations, commonly referred to as FDCs. There are currently eleven (11) FDCs for the delivery of the Program to small businesses. The Program, by issuing a repayment guarantee, assists small businesses to qualify for loans when the business cannot otherwise obtain a loan. These loans may be used for starting or expanding a business or for working capital.

The FDCs are organized to provide financial assistance in the form of repayment guarantees of loans made to qualifying small businesses. The guarantees are backed by state funds deposited in a Trust Account. Each FDC has a portion of the Trust Account in its corporate name which represents the net sum of the funds appropriated for that FDC, plus interest earned, minus corporate expenses paid by interest income, and payments due to defaults of guaranteed loans and the trust account service fees.

A. General Information

The competitive bidding process being used for this procurement of services is the RFP two-tier method. Proposals will first be reviewed for compliance with Section V, Minimum Qualifications. Those proposals that meet the minimum qualifications will then proceed to be evaluated in a two-tier process according to the criteria established in Section VI, Selection Process and Evaluation Criteria. After meeting these requirements, the lowest bid will be awarded the contract.

Proposers should carefully review the requirements of this RFP and instructions that prescribe the format of proposals as outlined in Section V, Minimum Qualifications.

The Agency reserves the right to accept or reject any or all proposals received as a result of this RFP, to negotiate with any qualified firm, or to modify or cancel all or part of this RFP if it is in the interest of the Agency to do so.

B. Addenda

The Agency reserves the right to amend, alter or change the rules and conditions contained in this RFP prior to the deadline for submission of proposals. Addenda will only be sent to those potential proposers who submitted a timely Notice of Intent to Bid (see Paragraph F of this Section). Subsequent addenda must be followed. Proposers may contact Karen Kawada at 916-323-5825 to verify receipt of all addenda related to this RFP.

C. Proposers' Costs

Costs for developing proposals are entirely the responsibility of the proposers and shall not be reimbursed by the State.

D. Bidders' Conference

The Bidders' Conference is designed to clarify the requirements of this RFP by providing answers to potential proposers' questions. Questions pertaining to this RFP may be presented in writing to the Agency prior to the Bidders' Conference and/or during the Bidders' Conference. Advance questions should be submitted by Monday, March 30, 2009 by 5:00 P.M. and may be sent by mail, fax, or e-mail to the Agency at the location identified in Paragraph E of this Section. A team of Agency representatives will be present at the Bidders' Conference to address the items in question.

The Bidders' Conference will take place at the following location on Thursday, April 2, 2009 at 1:00 P.M. unless otherwise notified:

California Business, Transportation and Housing Agency
Department of Managed Health Care
980 Ninth Street
Floor 5, Room 500 – **to obtain entry badge to conference room**
Floor 8, Room 8069 – to Accomplishment Room
Sacramento, CA 95814

The questions responded to during the Bidders' Conference will be included in the Questions and Answer Summary (see Paragraph G of this Section), which will be sent to those having submitted a timely Notice of Intent to Bid (see Paragraph F of this Section). Attendance to the Bidders' Conference is optional.

E. Written Questions

Proposers needing additional clarification (after the Bidders' Conference) of the requirements of this RFP must submit questions in writing. All inquiries must be received no later than Friday, April 10, 2009 by 5:00 P.M.,

regardless of postmark. If questions are faxed or e-mailed, then the date and time received by the Agency must not be later than this due date and time. Direct written questions to:

Small Business Loan Guarantee Program
RFP for Trustee Services 2009
Attn: Karen Kawada
California Business, Transportation and Housing Agency
980 Ninth Street, Suite 2450
Sacramento, CA 95814
Fax: 916-323-5440 E-mail: karen.kawada@bth.ca.gov

Questions, suggestions or objections regarding the content of the RFP not submitted in writing by the deadline of Friday, April 10, 2009 by 5:00 P.M., shall be deemed waived and may not be raised at a later time. The State shall not be responsible for any delays in mail via the US Postal Service or by common carriers or by transmission errors or delays or misdelivery.

F. Notice of Intent to Bid

1. A Notice of Intent to Bid (Attachment I) must be received by the Agency no later than Friday, April 10, 2009 by 5:00 P.M., regardless of postmark. The Notice of Intent to Bid may be faxed (confirmation receipt should be retained by the sender). The Notice of Intent to Bid shall not be e-mailed. If the Notice of Intent to Bid is faxed, then the date and time received by the Agency must not be later than the due date and time.
2. The Notice of Intent to Bid shall be typed, completed in its entirety, and signed by an authorized representative of the proposing entity.
3. The Notice of Intent to Bid shall be directed to the address identified in Paragraph E of this Section.
4. Proposals shall be accepted only from Proposers who submitted a timely Notice of Intent to Bid.
5. The Notice of Intent to Bid is non-binding, however, it ensures the receipt of any and all inquiries, responses and addenda related to this RFP. Any correspondence or addenda originating after Friday, April 10, 2009 by 5:00 P.M. will be mailed or faxed only to those potential proposers having submitted a timely Notice of Intent to Bid.

G. Questions and Answer Summary

A summary of all potential proposers' written questions and the Agency's answers to those questions will be mailed on or near Monday, May 4, 2009 to only the proposers having submitted a timely Notice of Intent to Bid. As indicated in Paragraph D of this Section, the Questions and Answer Summary will also include the questions and answers from the Bidders' Conference. Oral communications with State officers and employees shall be non-binding on the State and shall in no way exclude the proposers of obligations as set forth in this RFP.

H. Bid Quote

The Bid Quote form (Attachment 3) and, if applicable, the preference forms for Small Business, TACPA, EZA and LAMBRA described in Paragraphs S and T of this Section must be submitted in a sealed envelope--separate from the narrative sections of the proposal package. This envelope must be clearly marked "Bid Quote – Do Not Open Until July 7, 2009" with the Proposer's name on both the envelope and on the Bid Quote. Only one (1) Bid Quote form may be submitted for each Proposer. The Bid Quote must not be disclosed anywhere in the proposal except for on the Bid Quote form that is submitted separately. The Bid Quote form shall not be altered. For emphasis purposes, the Bid Quote form requests for the rate to be expressed as a quarterly rate.

I. Delivery of Proposals

Deliver in a sealed package(s), six (6) typed copies of the proposal (one original signature and five copies) and one (1) separately sealed envelope containing the Bid Quote (Attachment 3), to the Agency at the address below, no later than Monday, May 25, 2009 by 5:00 P.M. Proposals may not be faxed or e-mailed. Only one (1) sealed Bid Quote (Attachment 3) will be accepted from each Proposer. The sealed package(s) containing the six (6) proposals and sealed Bid Quote must be labeled as follows:

Small Business Loan Guarantee Program
RFP for Trustee Services 2009
DO NOT OPEN UNTIL
Monday, May 25, 2009 at 5:00 P.M.

Attn: Karen Kawada
California Business, Transportation and Housing Agency
980 Ninth Street, Suite 2450
Sacramento, CA 95814

Proposals cannot, by State law, be accepted after this date and time and will be returned, unopened. The State shall not be responsible for any delays in mail via the US Postal Service or by common carriers or by transmission errors or delays or misdelivery. Proposals received within the prescribed deadline become the property of the Agency and will not be returned.

All rights to the contents therein become those of the Agency. Creative materials, if applicable, may be returned at the Agency's discretion. The Proposer must submit a written request and be prepared to pay postage. No materials will be returned prior to an executed, approved contract.

J. Public Bid Opening

The Public Bid Opening will take place on Tuesday, July 7, 2009 at 10:00 A.M. at the California Business, Transportation and Housing Agency location. Those interested in attending the Public Bid Opening are asked to RSVP by contacting Karen Kawada at 916-323-5825 to obtain room information.

K. Grounds for Rejection

The Agency reserves the right to waive any immaterial deviation in a proposal; however, the waiver of an immaterial deviation in a proposal shall in no way modify the document or excuse the Proposer from full compliance with the proposal requirements after the Proposer is awarded the contract (see Section I, Introduction, Paragraph E4).

A proposal shall be rejected if:

1. The Proposer did not submit a Notice of Intent to Bid (Attachment 1) by the established deadline.
2. The proposal is received at any time after the exact date and time set for receipt of proposals (Public Contract Code, Section 10344[a]).
3. The Cover Sheet (Attachment 2) is unsigned.

4. The Bid Quote (Attachment 3) is not enclosed in a sealed envelope, separate from proposal, marked "Bid Quote--Do Not Open Until July 7, 2009" with the Proposer's name on both the envelope and on the Bid Quote form. Only one (1) Bid Quote may be submitted for each Proposer.
5. The Bid Quote is disclosed anywhere in the proposal except for on Attachment 3, Bid Quote.
6. The Proposer has been decertified from contracting with the State by the Department of Fair Employment and Housing.
7. The Proposer has received a substantive negative contract evaluation from the State of California.
8. The proposal contains false or misleading statements or references that do not support an attribute or condition contended by the Proposer and, if in the opinion of the Agency, such information was intended to erroneously mislead the Agency in its evaluation of the proposal.
9. The proposal is marked confidential (excluding Proposer's financial statements), conditional, incomplete or if it contains any irregularities.
10. The Proposer has had a contract with the State of California canceled due to failure to comply with the Drug-Free Workplace Act of 1990 (see Paragraph P of this Section).

L. Notice of Intent to Award

1. Award of the contract, if it is awarded, shall be to the lowest Bid Quote from Proposers passing the minimum qualifications as outlined in Section V, Minimum Qualifications and the scoring phases as outlined in Section VI, Selection Process and Evaluation Criteria.
2. Upon selection of a proposed contractor, a Notice of Intent to Award will be posted for five (5) working days at the Agency; 980 Ninth Street, Suite 2450; Sacramento, CA. This 5-day period is known as the "protest period." Should a Proposer wish to protest the intended award, the protest must be filed during this protest period (see Paragraph M of this Section).
3. Proposals, cost data and evaluation forms will be regarded as public records after the contract is awarded under the California Public Records Act (Government Code, Section 6250 et seq.).
4. The Agency reserves the right to negotiate with any qualified Proposer, or to modify or cancel in part or in its entirety the sample contract provisions (Attachment 9) if it is in the best interest of the Agency to do so.
5. The Agency reserves the right to not award a contract.

M. Protests

1. Only a Proposer that has submitted a timely proposal in response to this RFP and is not awarded the resulting contract may file a protest.
2. A Proposer who claims he/she would have been eligible for the award of the contract if the Agency had scored his or her proposal correctly, or if the Agency had correctly followed the procedures specified in the Public Contract Code, may file a protest.

3. If a Proposer chooses to protest the Notice of Intent to Award, the protesting Proposer shall file with the Agency and DGS within five (5) working days of the date the Notice of Intent to Award is posted (protest period), a full and complete written statement specifying the grounds for the protest (Public Contract Code, Sections 10345(b)(1)). All protests must be submitted to both of the following entities:

Karen Kawada
California Business, Transportation and Housing Agency
Small Business Loan Guarantee Program
980 Ninth Street, Suite 2450
Sacramento, CA 95814

Protest Coordinator
California Department of General Services
Office of Legal Services
707 Third Street, 7th Floor
West Sacramento, CA 95605

4. There is no basis for protest if the Agency rejects all proposals, based on the interests of the State.
5. If no protest is filed with the Agency within five (5) working days of the date the Notice of Intent to Award was posted, the contract shall be awarded to the proposed contractor.

N. Debriefings

Written debriefings of the evaluation results will not be provided to unsuccessful Proposers. Oral debriefings may be provided at the Agency's discretion.

O. Corporate Qualifications to do Business in California

1. In order to ensure all obligations due the State are fulfilled, when contracts are to be performed in the State by corporations, the Agency will obtain verification that the contractor is currently qualified to do business in California.
2. "Doing business" is defined in Revenue and Taxation Code, Section 23101 as actively engaging in any transaction for the purpose of financial or pecuniary gain or profit. While there are some statutory exceptions to taxation, it will be a rare instance when a corporate contractor performing within the State will not be subject to the franchise tax.
3. Both domestic and foreign corporations (those incorporated outside of California) must be in good standing in order to be qualified to do business in California. Whether or not a corporation is in good standing will be determined by the information on file with the Office of the Secretary of State during the RFP process and at any time through the three-year contract term.
4. The Agency and contractors may obtain assistance in evaluating a claim of exemption from the Franchise Tax Board. Inquiries should be directed to the Exempt Organizations Unit desk, at 916-845-4171.

P. Drug Free Workplace Act of 1990

1. In submitting a bid to the Agency, the Proposer offers and agrees that if the bid is accepted, it will certify under penalty of perjury under the laws of the State of California that it will comply with the requirements of the Drug-Free Workplace Act of 1990 (Government Code, Section 8350 et seq.) and will provide a drug-free workplace by:
 - a. Publishing a statement notifying employees that unlawful manufacture, distribution, dispensation, possession, or use of a controlled substance is prohibited and specifying actions to be taken against employees for violations, as required by Government Code, Section 8355(a).

- b. Establishing a Drug-Free Awareness Program as required by Government Code, Section 8355 (a), to inform employees about:
 - 1) The dangers of drug abuse in the workplace;
 - 2) The person's or organization's policy of maintaining a drug-free workplace;
 - 3) Any available counseling, rehabilitation and employee assistance programs;
 - 4) Penalties that may be imposed upon employees for drug abuse violations; and,
 - c. Providing, as required by Government Code, Section 8355 (a)(3), that every employee who performs work under the agreement will:
 - 1) Receive a copy of the Contractor's drug-free policy statement; and,
 - 2) Agree to abide by the terms of the Contractor's statement as a condition of employment under this agreement.
2. Failure to comply with these requirements may result in suspension of payments under the agreement or cancellation of the agreement or both and the Contractor may be ineligible for award of any future state contracts if the State determines that the Contractor:
- a. Has made a false certification; or,
 - b. Violates the certification by failing to carry out the requirements as noted above.

Q. Antitrust Claims

- 1. In submitting a proposal to a public purchasing body, the proposer offers and agrees that if the bid is accepted, it will assign to the purchasing body all rights, title, and interest in and to all causes of action it may have under Section 4 of the Clayton Act (15 U.S.C. Section 15) or under the Cartwright Act (Chapter 2 [commencing with Section 16700] of Part 2 of Division 7 of the Business and Professions Code), arising from purchases of goods, materials, or services by the proposer/proposer for sale to the purchasing body pursuant to the bid. Such assignment shall be made and become effective at the time the purchasing body tenders final payment to the proposer. (Government Code, Section 4552.)
- 2. If an awarding body or public purchasing body receives, either through judgment or settlement, a monetary recovery for a cause of action assigned under this chapter, the assignor shall be entitled to receive reimbursement for actual legal costs incurred and may, upon demand, recover from the public body any portion of the recovery, including treble damages, attributable to overcharges that were paid by the assignor but were not paid by the public body as part of the bid price, less the expenses incurred in obtaining that portion of the recovery. (Government Code, Section 4553)
- 3. Upon demand in writing by the assignor, the assignee shall, within one year from such demand, reassign the cause of action assigned under this part if the assignor has been or may have been injured by the violation of law for which the cause of action arose and (a) the assignee has not been injured thereby, or (b) the assignee declines to file a court action for the cause of action. (Government Code, Section 4554)

R. Conflict of Interest

- 1. Current State Employees (Public Contract Code, Section 10410)

- a. No officer or employee in the state civil service or other appointed state official shall engage in any employment, activity, or enterprise from which the officer or employee receives compensation or in which the officer or employee has a financial interest and which is sponsored or funded, or sponsored and funded by any state agency or department through or by a state contract unless the employment, activity, or enterprise is required as a condition of the officer's or employee's regular state employment.
 - b. No officer or employee in the state civil service shall contract on his or her own individual behalf as an independent contractor with any state agency to provide services or goods.
2. Former State Employees (Public Contract Code, Section 10411)
- a. For the two-year period from the date he or she left State employment, no retired, dismissed, separated, or formerly employed person of any state agency or department employed under the state civil service or otherwise appointed to serve in state government may enter into a contract in which he or she engaged in any of the negotiations, transactions, planning, arrangements, or any part of the decision-making process relevant to the contract while employed in any capacity by any state agency or department.
 - b. For a period of 12 months following the date of his or her retirement, dismissal, or separation from state service, no person employed under state civil service or otherwise appointed to serve in state government may enter into a contract with any state agency, if he or she was employed by that state agency in a policymaking position in the same general subject area as the proposed contract within the 12-month period prior to his or her retirement, dismissal, or separation. The prohibition of this subdivision shall not apply to a contract requiring the person's services as an expert witness in a civil case or to a contract for the continuation of an attorney's services on a matter with which he or she was involved prior to leaving state service.

S. Small Business Enterprise Preference

The Agency is committed to comply with Section 14835 et seq. of the California Government Code which requires that a five (5) percent preference be given to bidders who qualify as a small business. The rules and regulations of this law including the definition of a small business for the delivery of service are contained in Title 2, California Code of Regulations, Section 1896 et seq.

To claim the small business preference, a Proposer must complete Small Business Preference form (Attachment 4) and submit it with the Bid Quote—not the proposal.

T. Target Area Contract Preference Act (TACPA), Enterprise Zone Act (EZA) and Local Agency Military Base Recovery Area (LAMBRA) Act

Government Code, Sections 4530 et seq., 7070 et seq., and 7105 et seq. provide that for any State agency agreement for goods or services in excess of \$100,000 (one hundred thousand dollars), and the worksite is not fixed by the terms of the contract, preference will be granted to California-based bidders if they meet the requirements specified in Title 2, California Code of Regulations, Sections 1986.30 et seq. and 1896.100 et seq., pertaining to the Target Area Contract Preference Act (TACPA), the Enterprise Zone Act (EZA), and the Local Military Base Recovery Area (LAMBRA) Act. Proposers seeking these preferences must submit applicable completed Standard Forms 830, 831 and/or 832 with their Bid Quote—not the proposal. As explained in these Standard Forms, the Contractor is allowed bidding preferences for each qualifying program (TACPA, EZA, LAMBRA and Small Business, previously explained). If the Proposer qualifies for more than one preference, the preference can not exceed a maximum of 15% (fifteen percent) of the lowest responsible bid and in no case more than \$100,000 per bid. The preferences do not alter the amount of the resulting Agreement and are used only for bidding purposes.

Bidders may obtain copies of Standard Forms 830, 831 and 832 via the Internet at:
<http://www.osp.dgs.ca.gov/StandardForms/Fill+and+Print+Standard+eForms.htm>.

To prove capability for providing financial advisory/trust services, Proposer (trustee) must describe qualifications, methodologies to be used, including procedures, records maintenance, accuracy checks, quality controls, examples of past projects, competency, ability to meet deadlines and managerial experience.

If any portion of the Scope of Work is proposed to be subcontracted, the Proposer must document which portions of the work will be performed by subcontractors and their ability to perform the work. However, all subcontractors must be approved by the Agency. The Proposer must make it clear to any subcontractors included in the proposal that even if the Proposer is selected, the subcontractors may not necessarily be selected.

A. Qualifications

1. Proposer must provide a summary of their key strengths and qualifications to serve as a trustee to the Agency, including how long it has managed public trust accounts.
2. Proposer must describe its view of the most important challenges and opportunities facing the Trust Account in connection with their investments.
3. Proposer must describe its (or its financial institution affiliate's) participation in the California Small Business Loan Guarantee Program. Proposer may submit a report of its Loan Guarantee Portfolio and/or proposal of future participation. A Proposer with a record of past participation will be scored higher than a Proposer that has not participated in the past. A Proposer with a strong commitment for future participation will be scored higher than a Proposer that has no or limited commitment for future participation. A Proposer with unfilled past promises to participate will be scored lower than a Proposer which has no unfilled promises to participate.
4. Proposer must describe three (3) financial trust agreements over the last two (2) years that are most similar to this RFP. Proposer must indicate the name of the issuer, a description of the transaction(s), the individual(s) from the Proposer's firm involved and the value added by the Proposer's firm.
5. Proposer must describe in dollar volume, the number of trusts for which the Proposer has acted as a trustee within the last two (2) years.
6. Proposer must describe any pending legal proceeding within the last three (3) years involving the Proposer, or an officer of the Proposer, alleging, or judgments involving, malpractice or violations of law in connection with the management of a trust.
7. Proposer may provide any additional information that would be of value to the Agency in the selection process.

B. Work Plan

The Proposer must provide a comprehensive work plan, which must convey the Proposer's knowledge of the subjects and skills necessary to manage the Trust Account. Within the work plan, the Proposer must describe and define tasks and transactions involved, all investment options, processes, and reports used to manage the Trust Account. The work plan must include specific performance measures for each goal and how they will be evaluated.

Proposer must provide the following trustee services and must provide proof of ability to invest the Trust Account, consistent with the following restrictions:

1. The trustee will manage assets held for the benefit of the Trust Account. Only the following Trust Account investments may be made. Proposer must show the ability to service:

- a. Money market accounts and Certificates of Deposit issued by banks and savings and loan associations domiciled in California; and,
- b. Securities allowed by Government Code, Section 16430 (Attachment 7). Investment in these securities must be consistent with the policies of the State Treasurer's Office for the Pooled Money Investment Account (Attachment 8).

The trustee will invest the Trust Account, in those instruments selected by the trustee at its sole discretion, consistent with the above restrictions. This portion of the Trust Account is known as Managed Portion of the Trust Account.

- 2. The trustee will manage a portion of the Trust Account known as the Directed Portion of the Trust Account. With funds in the Directed Portion of the Trust Account, the trustee will purchase certificates of deposits from banks and savings and loans associations domiciled in California as instructed by the FDCs. These certificates of deposits will not exceed the maximum covered by the insurance carried by the respective financial institution and the Directed Portion of the Trust Account shall not exceed one-third of the total Trust Account.
- 3. In accordance with the California Corporations Code, Section 14070 (c), the State will authorize disbursements from the Trust Accounts, including disbursements to purchase loans made by the FDCs. These loans are normally guaranteed by the United States Department of Agriculture, Farm Services Agency. The trustee will receive instructions from the FDCs regarding disbursements, repayments and other transactions on these loans. So long as the FDC instructions are within the written authorizations given by State to the trustee, the trustee will make and receive payments as ordered by the FDCs and maintain records on transactions and balances related to these individual loans.

In performing the trustee services herein, the Proposer understands that:

- 4. All such investments shall be held by the trustee and shall be made and held on behalf of the State. The trustee may hold securities in its own vault or the vault of its affiliate; registered in the name of its nominee or the nominee of its affiliate; or where securities are eligible for deposit in a central depository such as the Depository Trust Company and The Federal Reserve Bank of New York. The trustee may utilize any such depository and permit the registration of registered securities in the name of its nominee, and the trustee and the nominee shall be held harmless from any liability as holders of records.

These instructions prescribe the proposal content and format to be used and mandatory content to be included in each proposal. **PROPOSALS SHOULD BE PREPARED AND SUBMITTED IN THE FOLLOWING FORMAT TO ENSURE ACCURATE EVALUATION.**

The following list serves as the checklist to verify the inclusion of minimum qualifications. If any single item receives a negative response, the proposal may be eliminated from further review and considered non-responsive. **FAILURE TO DEMONSTRATE OR EVIDENCE FULFILLMENT OF ALL MINIMUM QUALIFICATIONS MAY RESULT IN DISQUALIFICATION.**

FOR AGENCY USE ONLY		
Proposer: _____	Reviewer: _____	Date: ____/____/09

		Meets Requirements	
		YES	NO
A. Proposal Package			
The sealed proposal package(s) contains six (6) typed copies of the proposal (one original and five copies).	<input type="checkbox"/>	<input type="checkbox"/>	
B. Bid Quote			
The sealed proposal package(s) contains one (1) completed ATTACHMENT 3, BID QUOTE, in a separate, sealed envelope clearly marked "Bid Quote—Do Not Open Until July 7, 2009" and the applicable bid preference forms	<input type="checkbox"/>	<input type="checkbox"/>	
C. Proposal Format and Content			
Respond and include each item listed, giving specific details of techniques to be used in meeting these requirements. Use of the following format/organization is strongly urged to ensure proper completion of the proposal.			
1. Table of Contents with information organized as presented here and with corresponding page references.	<input type="checkbox"/>	<input type="checkbox"/>	
2. ATTACHMENT 2, COVER SHEET is completed and signed.	<input type="checkbox"/>	<input type="checkbox"/>	

		Meets Requirements	
		YES	NO

C. Proposal Format and Content (continued)

- | | | | |
|---------------------------------|---|--------------------------|--------------------------|
| 3. | <u>Description of Organization:</u> Proposer must describe the firm, its ownership structure, nature of the organization's services and activities, when the business was established and brief history. List the location(s) of the office(s) from which the primary work on this contract would be performed. Proposer must give evidence that it has a California office and will provide service through this location. | <input type="checkbox"/> | <input type="checkbox"/> |
| 4. <u>Trustee Advisory Team</u> | | | |
| a. | <u>Contract Manager:</u> Identify one (1) individual on the Proposer's staff who will be the primary contact and manage the contract work. Document overall experience as a financial advisor, with a minimum of five (5) years of service. | <input type="checkbox"/> | <input type="checkbox"/> |
| b. | <u>Team:</u> The Proposer must identify the team and key personnel who will actually be involved in providing financial advisory services to the Agency. "Key Personnel" are defined as those people who will exercise a major management and/or administrative role on behalf of the Proposer. Identify the role each team member will serve, title, where the individual is headquartered and the percentage of the firm's totals effort that will be provided by the individual. Do not exceed two pages per person. | <input type="checkbox"/> | <input type="checkbox"/> |
| c. | <u>Resumes:</u> Provide resumes for each individual. Provide education, experience and expertise with pertinent information demonstrating qualifications for this RFP. | <input type="checkbox"/> | <input type="checkbox"/> |
| 5. | <u>Scope of Work:</u> The proposal contains a Scope of Work that includes Qualifications and a Work Plan, as described in Section IV, Scope of Work. | <input type="checkbox"/> | <input type="checkbox"/> |
| 6. | <u>Subcontractors:</u> Identify all proposed subcontractor(s) for work that exceeds \$5,000 (five thousand dollars). Document which portions of service will be performed by subcontractors and their ability to perform the work. Include resumes of subcontractor's key personnel. Do not exceed two (2) pages per person. | <input type="checkbox"/> | <input type="checkbox"/> |

The use of subcontractor(s) will be subject to approval by the Agency. Therefore, not all work recommended by the Proposer will necessarily be approved and not all subcontractors listed in the proposal will necessarily be selected. The Proposer must make it clear to any subcontractors included in the proposal that even if the Proposer is selected, the subcontractors may not necessarily be selected.

Meets Requirements	
YES	NO

C. Proposal Format and Content (continued)

7. Attachments

- | | | |
|---|--------------------------|--------------------------|
| a. Community Reinvestment Act ("CRA"). Provide a current copy of the Proposer's CRA performance evaluation and rating. If the Proposer is not a lender governed by CRA, then provide a current copy of the Proposer's affiliate financial institution's CRA.) | <input type="checkbox"/> | <input type="checkbox"/> |
| b. Documentation of Incorporation. Proposer must provide evidence that its corporation is active and in good standing in the State of California. | <input type="checkbox"/> | <input type="checkbox"/> |
| c. Proposal contains a signed Non-collusion Statement, Attachment 5. | <input type="checkbox"/> | <input type="checkbox"/> |
| d. Proposal contains a signed Nondiscrimination Compliance Statement (Std. 19), Attachment 6. | <input type="checkbox"/> | <input type="checkbox"/> |

10. If the Proposer has passed all of the above, the Agency will confirm the following:

Comments

- | | |
|---|-------|
| a. Proposer has not been decertified from contracting with the Agency by the Department of Fair Employment and Housing. | _____ |
| b. Proposer has not had a contract with the State of California canceled due to failure to comply with the Drug-Free Workplace Act of 1990. | _____ |
| c. Proposer has not received a significant negative contractor evaluation from Department of General Services. | _____ |

Each proposal shall be evaluated to determine responsiveness to the Agency's needs as described in this RFP. The Agency reserves the right at any time to reject any or all proposals. The selection process complies with the requirements for competitive bidding pursuant to Public Contract Code, Section 10344.

A. Process

1. Minimum Qualifications: After the period has closed for receipt of proposals, each proposal will first be evaluated to determine compliance with Section V, Minimum Qualifications. Those proposals that pass the minimum qualifications review will then proceed to the Proposal Evaluation (Tier I) phase. If a proposal does not meet all requirements, it may be considered non-responsive and be rejected from further competition.
2. Proposal Evaluation (Tier I): Proposals will be evaluated and scored according to specific and predetermined criteria as outlined in Paragraph B of this Section. Each proposal that scores eighty (80) points or more out of the total one hundred (100) points in this scoring phase will then proceed to the Oral Interview phase. All proposals scoring less than eighty (80) points in this portion of the scoring will be rejected from further competition.
3. Oral Interviews: Evaluation of oral interviews will be according to specific and predetermined criteria as outlined in Paragraph C of this Section. Each Proposer scoring forty (40) points or more in the oral interview will then proceed to the Public Bid Opening. All proposals scoring less than forty (40) points will be rejected from further consideration.
4. Public Bid Opening (Tier II): Sealed bids of finalists will be opened and ranked according to preferences and Bid Quote. The contract will be awarded to the lowest responsive bid after any preferences for Small Business Preference (Attachment 4), Target Area Contract Preference, Enterprise Zone Preference and/or the Local Agency Military Base Recovery Act Preference are verified and accordingly applied.
5. Notice of Intent to Award: A Notice of Intent to Award the contract will be posted for five (5) working days at the Agency. The Notice of Intent to Award will also be faxed to all Proposers on the day it is posted. Should a Proposer wish to protest the intended award, it must be raised during this five (5)-day protest period (see Section III, Rules and Conditions, Paragraphs L and M).
6. Contract Negotiations: Preliminary contract negotiations shall begin on or after the date the Notice of Intent to Award is posted.

B. Proposal Evaluation Criteria (Tier I)

Proposals will be reviewed, evaluated and scored by an authorized evaluation committee. Evaluation of proposals will be based on the criteria shown as follows for each component; each component will be scored according to the degree of responsiveness present in the proposal being evaluated. A component score will not exceed the possible points shown for that component. The proposal score, before adjustment for any preference which may apply, will be the sum of the points allowed as assigned to each component.

FOR AGENCY USE ONLY

Proposer: _____

Evaluated By: _____

Date: _____

Maximum Points/Score

- | | | |
|--|----|-------|
| 1. Proposer demonstrated ability and capacity to effectively manage public trust funds. Proposer's quality of team experience and expertise in administering public trust accounts. (Section IV, Scope of Work, Paragraph A.) | 25 | _____ |
| 2. Proposer demonstrated level of commitment to California and to the Small Business Loan Guarantee Program. (Section IV, Scope of Work, Paragraph A.) | 30 | _____ |
| 3. Proposer's thoroughness, development, and specificity of the work plan and investment options; Proposer's investment plan; Proposer's understanding of program requirements, regulations and other factors that govern public trust in the State. (Section IV, Scope of Work, Paragraph A.) | 30 | _____ |
| 4. Proposer's methodology, procedures, and analytical techniques used to administer the Trust Account, and demonstrated ability to meet the Agency's needs. (Section IV, Scope of Work, Paragraph A.) | 15 | _____ |

TOTAL PROPOSAL EVALUATION POINTS 100 _____

C. Oral Interview Evaluation Criteria

The evaluation committee will conduct oral interviews with all Proposers whose proposals have passed the minimum qualifications and scored eighty (80) points or more in the proposal evaluation. The oral interviews may also be open to subcontractors, if requested by the evaluation committee. It is recommended that the team actually conducting the work attend the oral interview. The Proposer's contract manager shall give the presentation. All oral interviews are expected to be held in Sacramento, but the evaluation committee reserves the right to conduct interviews at other designated sites or by a conference telephone call. The evaluation committee reserves the right to designate one or more member of the committee to conduct and score the oral interviews. If a Proposer cannot meet on the designated interview date, the evaluation committee reserves the right to disqualify the Proposer as being non-responsive.

The oral interview will allow qualified Proposers the opportunity to demonstrate their understanding of the project, and to articulate their ability to meet or exceed the requirements of this RFP. No additional materials other than those offered in the original proposal may be brought forward for consideration during the interview. The following criteria will be used for scoring the oral interview.

<u>FOR AGENCY USE ONLY</u>	Proposer: _____
	Evaluated By: _____
	Date: _____

Maximum Points/Score

1. Quality and completeness of answers to questions regarding the Trust Account management. Professionalism of team assigned to the project	20	___
2. Proposer's ability to integrate its ideas into the Agency's overall objectives.	10	___
3. Quality of proposed strategies and work samples.	20	___
TOTAL ORAL INTERVIEW POINTS	50	___
TOTAL PROPOSAL POINTS	<u>150</u>	___

D. Public Bid Opening (Tier II)

1. Those proposals scoring a total of eighty (80) points or more in the Proposal Evaluation will proceed to the oral interview evaluation, and only those Proposers scoring a total of forty (40) points or more in the oral interview evaluation will advance to the Public Bid Opening.
2. The proposal containing the lowest Bid Quote, after the application of preference points, if claimed, shall be awarded the contract.

Preference points shall be applied as follows:

- a. Small Business Preference - 5% of price
 - b. Target Area Preference – 5% to 9% of price
 - c. Enterprise Zone Preference – 5% to 9% of price
 - d. Local Agency Military Base Recovery Preference – 5% to 9% of price
3. Tie Breaker. If there is a tie in Bid Quotes, and one of the tied bidders is a Small Business, the contract will be awarded to the bidder that is a Small Business. If more than one tied bidder is a Small Business, then the Bid Quotes of the tied Small Businesses will be ranked according to the total points earned in the Proposal Evaluation (Tier I). In the event no tied bidder is a Small Business, then the Bid Quotes of all tied bidders will be ranked according to the total points earned in the Proposal Evaluation (Tier I). In either case, the Proposer with the highest score will break the tie and be awarded the contract. In the event that there is a tie in Bid Quotes and in the total bid points earned in Proposal Evaluation (Tier I), then the award will be based on a coin toss, or other method determined to be appropriate by the Agency.

**ATTACHMENT
NUMBER**

DESCRIPTION

- | | |
|---|--|
| 1 | Notice of Intent to Bid |
| 2 | Cover Sheet |
| 3 | Bid Quote |
| 4 | Small Business Preference |
| 5 | Non-collusion Statement |
| 6 | Nondiscrimination Compliance Statement (Std. 19) |
| 7 | Government Code, Section 16430 |
| 8 | Pooled Money Investment Account Policies |
| 9 | Sample Contract Provisions |

ATTACHMENT 1:
NOTICE OF INTENT TO BID

ATTACHMENT 1

NOTICE OF INTENT TO BID

Must be received by the Agency at the address shown below no later than
Friday - April 10, 2009 by 5:00 P.M. Pacific Time

MAIL or FAX to:

Small Business Loan Guarantee Program
RFP for Trustee Services 2009
Attn: Karen Kawada
California Business, Transportation and Housing Agency
980 Ninth Street, Suite 2450
Sacramento, CA 95814

Fax: 916-323-5440

Name of Proposer/Bidder/Company:
Contact Person:
Mailing Address:
Voice Telephone Number:
Fax Telephone Number*:
Signed:

A Notice of Intent to Bid must be sent by the Proposer and received by the addressee above in order for the proposal to be accepted for consideration. However, submittal of a Notice of Intent to Bid does not obligate the Proposer to submit a proposal.

* A receipt confirmation of the "Notice of Intent to Bid" will be faxed to the telephone number entered here.

ATTACHMENT 2:

COVER SHEET

ATTACHMENT 2

COVER SHEET

The submission of this Proposal does not obligate the Agency to fund the proposed contract. If the Proposer is selected as the Awardee, a contract will be executed between the Agency and the Awardee. The Awardee will be required to adhere to the terms of the executed contract. Entries may be printed or typed.

(a) Full Legal Name of Proposer's Organization: _____

(b) Address of Headquarters: _____

Street	City/County	Zip Code
Telephone Number to Headquarters: _____		
Voice	Fax	

Address of California office: _____

Street	City/County	Zip Code
Telephone Number to California office: _____		
Voice	Fax	

(c) Federal Taxpayer Identification Number: _____

(d) Status of Organization submitting a Proposal (check applicable one):

(1) ☐ Nonprofit Corporation

Place and date of incorporation: _____

Date Corporation was authorized to do business in California: _____

President: _____

Vice President: _____

Secretary: _____

Treasurer: _____

Other Officers (Executive Officer): _____

(2) ☐ Local Government or Public Organization

Name and Title of: _____
Mayor, Chair of Board of Supervisors, School District, Community College District, Chair of Board of Governor or City Manager, County Executive, Superintendent of Schools or President, Community College

(3) ☐ For-Profit Business or Individual

Name of For-Profit Business or Individual: _____

(e) Certification: I hereby certify that the information contained in this Proposal is, to the best of my knowledge, complete and accurate; that the Proposer named above has authorized me, as its representative, to submit this Proposal; and that the Proposal and cost information is valid for ninety (90) days from the date of submission.

Signature: _____ Date: _____

Printed Name of Representative (above) and Title: _____

ATTACHMENT 3:

BID QUOTE

ATTACHMENT 3

BID QUOTE

(Submit in a sealed envelope, separate from proposal, marked "Bid Quote--Do Not Open Until July 7, 2009"
This Bid Quote format shall not be altered.)

Item	Quarterly Fee Rate	Example Quarterly Fee Charge*
1. Proposed quarterly rate for trustee management and investment of the Trust Account (Managed portion of the Trust Account)	_____ % of 1.0%	\$_____
2. Proposed quarterly rate for trustee management of the Directed portion of the Trust Account	_____ % of 1.0%	\$_____
3. Proposed quarterly rate for service of Trust Account disbursements to purchase FDC loans	_____ % of 1.0%	\$_____
TOTAL QUARTERLY FEE RATE FOR TRUSTEE SERVICES	_____ % of 1.0%**	

WHAT ASSET VALUE WOULD THE QUARTERLY FEE RATE (ABOVE) FOR TRUSTEE SERVICES BE APPLIED TO (CIRCLE APPLICABLE VALUE): Market Value or Cost Basis

AS OF WHAT DAY WITHIN THE QUARTER WOULD THE QUARTERLY FEE RATE BE APPLIED TO THE ASSET VALUE _____

* In this column, display an example quarterly fee charge computed for items 1, 2 and 3, use the Quarterly Fee Rate displayed for each item to an assumed fee base of \$1 (one) million for each item.

** This would be the maximum charge, however, the trustee may charge less for managing a certain type of asset. For example, the trustee may charge a lesser fee for funds held in a money market account, but up to the maximum for the balance of the Trust Account.

All costs associated with this proposal shall be included in this Bid Quote. The fee charged shall be expressed as a percentage of Trust Account funds. The asset value that is used to compute the quarterly fee must be documented to enable to the Agency to confirm the fee computation. The fee shall encompass all costs, including any travel expenditures.

Signature of Authorized Representative on behalf of the Proposer

Printed Name and Title

Printed Name of Proposer/Firm/Organization

Date

ATTACHMENT 4:
SMALL BUSINESS PREFERENCE

ATTACHMENT 4

SMALL BUSINESS PREFERENCE

Section 14835 et seq. of the California Government Code requires that a five (5) percent preference be given to bidders who qualify as a small business. The rules and regulations of this law, including the definition of a small business for the delivery of services, are contained in Title 2, California Code of Regulations, Section 1896 et seq. A copy of the regulations is available upon request.

To claim small business preference, which may not exceed \$50,000.00 for any bid, your firm must:

1. Have its principal place of business located in California,
2. Have a complete application (including proof of annual receipts) on file with the State Office of Small Business Certification and Resources (OSBCR) by 5:00 p.m. on the date bids are opened,
3. Be verified by such office; and
4. Have a copy of their OSBCR small business certification approval letter included in the proposal package.

Questions regarding the preference approval process should be directed to OSBCR at 916-375-4940.

Please indicate if you are claiming preference as a small business?

☐ No

☐ Yes (If yes, attach a copy of OSBCR Small Business Certification Approval Letter and enter number below)

Small Business Number

Federal Employer ID Number or Taxpayer ID Number

Signature of Authorized Representative on behalf of the Proposer

Printed Name and Title

Printed Name of Proposer/Firm/Organization

Date

ATTACHMENT 5:
NON-COLLUSION STATEMENT

ATTACHMENT 5

NON-COLLUSION STATEMENT

I,

_____ ,

representing, _____ ,
do hereby certify that neither myself nor any other person representing the above
named firm has made any attempt, verbally or otherwise, to induce any person or firm
to not submit a proposal for the purpose of restricting competition which may result in a
contract award by the California Business, Transportation and Housing Agency.

Signature of Authorized Representative on behalf of the Proposer

Printed Name and Title

Printed Name of Proposer/Firm/Organization

Date

ATTACHMENT 6:

NONDISCRIMINATION COMPLIANCE STATEMENT
(STD. 19)

ATTACHMENT 6

STATE OF CALIFORNIA
NONDISCRIMINATION COMPLIANCE STATEMENT
STD. 19 (Rev. 3-95)

COMPANY NAME

The company named above (hereinafter referred to as "prospective contractor") hereby certifies, unless specifically exempted, compliance with Government Code, Section 12990 (a-f) and California Code of Regulations, Title 2, Division 4, Chapter 5 in matters relating to reporting requirements and the development, implementation and maintenance of a Nondiscrimination Program. Prospective contractor agrees not to unlawfully discriminate, harass or allow harassment against any employee or applicant for employment because of sex, race, color, ancestry, religious creed, national origin, physical disability (including HIV and AIDS), medical condition (cancer), age (over 40), marital status, denial of family care leave and denial of pregnancy disability leave.

CERTIFICATION

I, the official named below, hereby swear that I am duly authorized to legally bind the prospective contractor to the above described certification. I am fully aware that this certification, executed on the date and in the county below, is made under penalty of perjury under the laws of the State of California.

OFFICIAL'S NAME

DATE EXECUTED

EXECUTED IN THE COUNTY OF

PROSPECTIVE CONTRACTOR'S SIGNATURE

PROSPECTIVE CONTRACTOR'S TITLE

PROSPECTIVE CONTRACTOR'S LEGAL BUSINESS NAME

ATTACHMENT 7:

GOVERNMENT CODE, SECTION 16430

GOVERNMENT CODE

SECTION 16430

16430. Eligible securities for the investment of surplus moneys shall be any of the following:

(a) Bonds or interest-bearing notes or obligations of the United States, or those for which the faith and credit of the United States are pledged for the payment of principal and interest.

(b) Bonds or interest-bearing notes on obligations that are guaranteed as to principal and interest by a federal agency of the United States.

(c) Bonds and notes of this state, or those for which the faith and credit of this state are pledged for the payment of principal and interest.

(d) Bonds or warrants, including, but not limited to, revenue warrants, of any county, city, metropolitan water district, California water district, California water storage district, irrigation district in the state, municipal utility district, or school district of this state.

(e) Bonds, consolidated bonds, collateral trust debentures, consolidated debentures, or other obligations issued by federal land banks or federal intermediate credit banks established under the Federal Farm Loan Act, as amended, in debentures and consolidated debentures issued by the Central Bank for Cooperatives and banks for cooperatives established under the Farm Credit Act of 1933, as amended, in bonds or debentures of the Federal Home Loan Bank Board established under the Federal Home Loan Bank Act, in stock, bonds, debentures and other obligations of the Federal National Mortgage Association established under the National Housing Act as amended, and in the bonds of any federal home loan bank established under that act, obligations of the Federal Home Loan Mortgage Corporation, in bonds, notes, and other obligations issued by the Tennessee Valley Authority under the Tennessee Valley Authority Act as amended, and bonds, notes, and other obligations guaranteed by the Commodity Credit Corporation for the export of California agricultural products under the Commodity Credit Corporation Charter Act as amended.

(f) (1) Commercial paper of "prime" quality as defined by a nationally recognized organization that rates these securities. Eligible paper is further limited to issuing corporations, trusts, or limited liability companies approved by the Pooled Money Investment Board that meet the conditions in either subparagraph (A) or subparagraph (B):

(A) Both of the following:

(i) Organized and operating within the United States.

(ii) Having total assets in excess of five hundred million dollars (\$500,000,000).

(B) Both of the following:

(i) Organized within the United States as a special purpose corporation, trust, or limited liability company.

(ii) Having programwide credit enhancements including, but not limited to, overcollateralization, letters of credit, or surety bond.

(2) Purchases of eligible commercial paper may not exceed 180 days' maturity, represent more than 10 percent of the outstanding paper of an issuing corporation, trust, or limited liability company, nor exceed 30 percent of the resources of an investment program. At the request of the Pooled Money Investment Board, this investment shall be secured by the issuer by depositing with the Treasurer securities authorized by Section 53651 of a market value at least 10 percent in excess of the amount of the state's investment.

(g) Bills of exchange or time drafts drawn on and accepted by a commercial bank, otherwise known as bankers acceptances, which are eligible for purchase by the Federal Reserve System.

(h) Negotiable certificates of deposits issued by a federally or state-chartered bank or savings and loan association, a state-licensed branch of a foreign bank, or a federally or state-chartered credit union. For the purposes of this section, negotiable certificates of deposits do not come within the provisions of Chapter 4 (commencing with Section 16500) and Chapter 4.5 (commencing with Section 16600).

GOVERNMENT CODE

SECTION 16430

Page 2

(i) The portion of bank loans and obligations guaranteed by the United States Small Business Administration or the United States Farmers Home Administration.

(j) Bank loans and obligations guaranteed by the Export-Import Bank of the United States.

(k) Student loan notes insured under the Guaranteed Student Loan Program established pursuant to the Higher Education Act of 1965, as amended (20 U.S.C. Sec. 1001 and following) and eligible for resale to the Student Loan Marketing Association established pursuant to Section 133 of the Education Amendments of 1972, as amended (20 U.S.C. Sec. 1087-2).

(l) Obligations issued, assumed, or guaranteed by the International Bank for Reconstruction and Development, the Inter-American Development Bank, the Asian Development Bank, the African Development Bank, the International Finance Corporation, or the Government Development Bank of Puerto Rico.

(m) Bonds, debentures, and notes issued by corporations organized and operating within the United States. Securities eligible for investment under this subdivision shall be within the top three ratings of a nationally recognized rating service.

ATTACHMENT 8:

POOLED MONEY INVESTMENT ACCOUNT
POLICIES

Office of the State Treasurer

The seal of the Office of the State Treasurer of California is a circular emblem. It features a central shield with a building and a figure holding a torch. Above the shield is the word "EUREKA". The outer ring of the seal contains the text "OFFICE OF THE STATE TREASURER" at the top and "CALIFORNIA" at the bottom, separated by small floral motifs.

Investment Policy Pooled Money Investment Account

October 27, 2008

STATE TREASURER'S OFFICE

STATEMENT OF PORTFOLIO MANAGEMENT GOALS, OBJECTIVES AND POLICIES

POOLED MONEY INVESTMENT ACCOUNT-PMIA

All state money held by the State Treasurer in Treasury trust accounts, and all money in the State Treasury is appropriated for the purpose of investment and deposit as provided in article 4.5, Section 16480 et. al. of the Government Code.

GOAL I. PORTFOLIO SAFETY/DIVERSIFICATION

The pool will be managed to insure the safety of the portfolio by investing in high quality securities and by maintaining a mix of securities that will provide reasonable assurance that no single investment or class of investments will have a disproportionate impact on the total portfolio.

OBJECTIVE: In addition to the safety provided by investing in high quality securities, the safety of the portfolio is enhanced three ways by maintaining a prudent mix (i.e., diversity) of investments: 1) Spreading investments over different investment types minimizes the impact any one industry/investment class can have on the portfolio; 2) Spreading investments over multiple credits/issuers within an investment type minimizes the credit exposure of the portfolio to any single firm/institution; and 3) Spreading investments over various maturities minimizes the risk of portfolio depreciation due to a rise in interest rates. An unforeseen liquidity need allows no options if ***“all your eggs are in one basket.”***

POLICY: The portfolio shall contain a sufficient number and diversity of marketable securities so that a reasonable portion of the portfolio can be readily converted to cash without causing a material change in the value of the portfolio. Limitation and eligibility as to specific investments are to be determined by the Pooled Money Investment Board in the case of Commercial Paper, the Treasurer's Office Investment Committee in cases of new dealer authorizations and approval of new corporate investments, and the Treasury Investment Division in all other matters.

GOAL II. LIQUIDITY

The pool will be managed to ensure that normal cash needs, as well as scheduled extraordinary cash needs can be met. Further, adequate liquidity shall be maintained to ensure the unforeseen cash needs, whether ordinary or extraordinary.

OBJECTIVE: The pool will maintain a ***“cash flow generated”*** portfolio balance sufficient to cover specifically the one-month prepared cash forecast, as well as generally the six month prepared cash forecast. Further, sufficient marketable treasuries will be maintained to cover unforeseen withdrawals or delayed deposits.

POLICY: First priority is given to maintaining specific calendar liquidity, as dictated by the most recent cash forecast. Second priority is the maintenance of Treasury Bill positions adequate to meet unscheduled needs. Final consideration would be given to “*other*” investments deemed appropriate to portfolio maintenance, enhancement, or restructuring.

GOAL III. RATE OF RETURN

Pooled investments and deposits shall be made in such a way as to realize the maximum return **consistent with safe and prudent treasury management.**

OBJECTIVE: The rate of return will be maintained on a consistent level representative of current market yield direction.

POLICY: Sales gains/losses will not be incurred to the point of radically altering the final quarterly apportionment rate. Significant sales gains will be offset for restructuring purposes to maintain consistent current return, as well as maximizing future portfolio performance. Significant sales losses shall be incurred only by consent of the Treasurer, or when sufficient profits negate the alteration of the apportionment rate. Range bonds and inverse yielding securities are examples of the types of investments which are precluded by the above stated objective.

CONFORMANCE

All of the foregoing goals, objectives and policies shall be observed by the Chief of Investments or his designee, monitored by the Treasurer's Investment Committee, and reviewed continually by the Treasurer or his/ her assistant.

STATE TREASURER'S OFFICE
STATEMENT OF PORTFOLIO MANAGEMENT GUIDELINES
POOLED MONEY INVESTMENT ACCOUNT-PMIA

The State Treasurer's Investment Division has set forth a general declaration of portfolio goals, objectives and policies. Following are various guidelines necessary to the good faith observance of these policies.

I. GUIDELINES FOR MAINTAINING SAFETY/DIVERSIFICATION

There are few statutory limitations placed on individual categories of authorized investments. However, this does not entitle the investment staff to ***“carte blanche”*** participation in these security types. In the absence of direct statutory limitations, the ***“prudent person rule”*** shall be utilized by the investment staff. As market conditions change, altering credit risk, marketability, yield spreads, and securities availability, application of this rule shall govern any investment decision. This application shall be discussed as soon as time permits with the Chief of Investments. At the Chief of Investments determination, the situation may be discussed with the full investment committee or brought directly to the attention of the Treasury Management.

Following are various considerations/limitations as they pertain to specific investment types:

A. *U.S. Treasury Securities*

- | | | | |
|----|-------------------------------------|--|-----------|
| 1) | Maximum maturity: | Statutory: | 30 years. |
| | | Policy: | 5 years. |
| 2) | Maximum par value, total portfolio: | | None. |
| 3) | Maximum par value per name: | | None. |
| 4) | Maximum par value per maturity: | | None. |
| 5) | Credit: | Full faith and credit of the Federal Government. | |

Treasury Bills are maintained for liquidity, trading, and yield enhancement as the underlying security in a Reverse Repurchase transaction. Treasury strips and full coupon securities are purchased for average maturity preservation, liquidity, and trading.

B. Federal Agency Securities

- 1) Maximum maturity: Statutory: 30 years.
 Policy: 5 years.
- 2) Maximum par value, total portfolio: None.
- 3) Maximum par value per name: None.
- 4) Maximum par value per maturity: None.
- 5) Credit: Despite there being no statutory limitations concerning this category, prudent investment practice necessitates constant credit analysis of certain issuing agencies. Although there exists an implicit or explicit government guarantee of the various agency issues, market perception often limits the liquidity of these issues.

C. Bankers Acceptances-Domestic/Foreign

- 1) Maximum maturity: Statutory: None.
 Policy: 180 days.

(This maximum maturity is a criterion used to determine eligibility for purchase by the Federal Reserve. Our authority is based on the eligibility as determined by the Fed. However, since the Fed has discontinued its eligibility requirements and purchases, this criterion is no longer applicable. Currently, a majority of acceptances are created only for 180 days.)

- 2) Maximum par value, total portfolio: None.
- 3) Maximum par value per name: None.
- 4) Maximum par value per maturity: None.
- 5) Credit:
 - a) The history of the acceptance market is spotless on **“Failures to redeem.”** This is true even through the years of WW II.
 - b) Geopolitical location is of prime concern when considering potential candidates. Internal, as well as border political and economic stability of the host country are of prime concern.
 - c) Liquidity as far as both credit risk and marketability in the secondary level are addressed.

- d) Although statutory authority does not limit eligibility according to ranking or rating, previously listed general criteria eliminate lesser credits.

D. *Certificates of Deposits*

- 1) Maximum maturity: Statutory: None.
 Policy: 5 years.
- 2) Maximum par value, total portfolio: None.
- 3) Maximum par value per name: None.
- 4) Maximum par value per maturity: None.
- 5) Credit:
 - a) Criteria concerning loan make-up, LDC exposure, geographic location, market perceptions, and financial condition all serve to eliminate lesser names.
 - b) Liquidity as far as both credit risk and marketability in the secondary level are addressed. There must be a market for the name in which at least three major dealers will bid or offer at a given moment.

E. *Collateralized Time Deposits*

- 1) Maximum maturity: Statutory: None.
 Policy: 5 years.
- 2) Maximum par value, total portfolio: None.
- 3) Maximum par value per name: Statutory: Shall not exceed
 the net worth of
 the institution.
 Policy: Same.
- 4) Maximum par value per maturity: None.
- 5) Credit: Institutions must be rated average or better, or above a “D”, by a recognized rating service utilized by the State Treasurer’s Office (STO) Investment Division and must pass a credit evaluation by the STO Staff. This evaluation may include a review of such criteria as geographic location,

market perception, loan diversity, management factors, overall fiscal soundness and the Community Reinvestment Act Rating of the institution. If, while holding a pool deposit, an institution is downgraded below acceptable levels by the rating agencies, the following steps shall be taken:

- a) Notify the Deposits Section to monitor collateral closely.
 - b) Review financials and update credit report.
 - c) Determine the appropriate plan of action which may include early termination of the time deposit, or allow the time deposit to mature.
- 6) Collateral must comply with Government Code, Chapter 4, Bank Deposit Law Section 16500 (et seq.) and the Savings and Loan Association and Credit Union Deposit Law G.C. Section 16600 (et seq.).

F. Commercial Paper

- 1) Maximum maturity: Statutory: 180 days.
Policy: 180 days.
- 2) Maximum par value, total portfolio: Statutory: 30% of the current portfolio.
Policy: Same.
- 3) Maximum par value per name: Statutory: 10% of outstanding
Policy: Same.
- 4) Maximum par value per maturity: None.
- 5) Credit: Commercial paper eligible for investment under this subdivision must be rated ***“Prime”*** quality as defined by a nationally recognized organization which rates such securities and must be issued by a corporation, trust, special purpose corporation, or limited liability company approved by the Pooled Money Investment Board. Furthermore, these entities must be either (1) organized and operating within the United States and have total assets in excess of five hundred million dollars (\$500,000,000) or (2) must be organized within the United States and have programwide credit enhancements including, but not limited to, overcollateralization, letters of credit or surety bonds.

G. Corporate Bonds/Notes

- 1) Maximum maturity: Statutory: None.
Policy: 5 years.
- 2) Maximum par value, total portfolio: None.
- 3) Maximum par value per name: None.
- 4) Maximum par value per maturity: None.
- 5) Credit: Securities eligible for investment under this subdivision must be issued by corporations (including banks) organized and operating within the United States and shall be within the top three ratings of a nationally recognized rating service.

H. Repurchases (RP) and Reverse Repurchase (RRP)

- 1) Maximum maturity: Statutory: None.
Policy: 1 year.
- 2) Maximum par value, total portfolio: Statutory: None.
Policy: RRP is limited to 10% of the current portfolio.
- 3) Maximum par value per name: None.
- 4) Maximum par value per maturity: None.
- 5) Credit:
 - a) Must have on file, a signed Security Loan Agreement and/or General Repurchase Agreement. (Repurchase Agreement may be either STO General Agreement or PSA Standard Agreement.)
 - b) Reverses and reverse repurchases are only done with long established and/or well capitalized broker-dealers.

The Reverse Repurchase Program is designed to augment the overall portfolio yield in a safe and prudent manner. It is not viewed as a tool with which to effect specific portfolio moves or plan major market strategy. The portfolio carries reversed securities at negative book and the re-investment at positive book. As a result, the reported size of the portfolio represents the true cash participation of its members. All reverses are cash matched either to the maturity of the re-investment or an adequately positive cash flow date which is approximate to the maturity of the re-investment. For example, if cash flow is positive on

January 27 and negative on January 31, then the reverse may mature on the 27th, and the re-investment may be taken to the 31st. Cash flow is evened out, and a positive spread is achieved. Only securities already held in the portfolio and unencumbered may be reversed. No item purchased against reverse will be used as a reversible security while the original reverse is outstanding (i.e., the STO does not leverage one liability with another). The against reverse re-investment will be limited to maturities under one year, effectively limiting the appropriate securities to generic money market issues. Because of the role played by the Reverse Program in this office, customized or structured products are not considered appropriate re-investment candidates. All costs, earnings, and spreads are fixed at the beginning of each transaction.

II. GUIDELINES FOR MAINTAINING LIQUIDITY

First priority will be the cash flow needs as reported on both the monthly and six-month cash forecasts. These forecasts will be updated daily using the current investment input, as well as adjustment information provided by Cash Management personnel.

Sufficient Treasury securities will be maintained for unscheduled cash needs. It has been determined that Treasury Bills having maximum maturity of 1 year will be used for this purpose. Because of their Government guarantee, as well as the short maturity, the exposure to market risk is minimal.

Due to the make-up of the portfolio participants, an average maturity of 120 days to eighteen months will be maintained.

III. GUIDELINES FOR MAINTAINING RATE OF RETURN

Always keep in mind the need to provide a consistent rate of return not only to the quarterly participants of the pool, but the longer-term depositors as well. It is often the case that investments made with long-term deposits create the base rate to the portfolio. Since sales gains/losses impact the portfolio on a quarterly basis, large gains/losses are to be avoided. Failure to offset either gains or losses proportionately would result in a saw-toothed apportionment rate history. For this reason, extreme positions or styles of trading are prohibited.

An informal weekly meeting, with the Chief of Investments, Assistant Chief, and Investment Manager, will be held to discuss current investment philosophies and upcoming economic releases. Decisions of value and direction are made to accommodate the occurrence of all those events which might be considered reasonable and probable.

Although securities trading is allowed for purposes of enhancing portfolio return, specific limitations have been established to protect the portfolio rate of return:

- 1) Prior to taking a position, apparent value and size will be discussed between the Chief and Treasury Trader involved.

- 2) During a “**when issued**” (W.I.) period our long position shall never exceed the amount we are willing to purchase.
- 3) Short positions will not be taken at any time.
- 4) Trading positions are to be reported daily to the Chief of Investments.

ATTACHMENT 9:

SAMPLE CONTRACT PROVISIONS

1. This Agreement is entered into between the State Agency and the Contractor named below

STATE AGENCY'S NAME

CALIFORNIA BUSINESS, TRANSPORTATION AND HOUSING AGENCY

CONTRACTOR'S NAME

XXXXXXX

2. The term of this Agreement is: November 1, 2009 through October 31, 2012

3. The maximum amount of this Agreement is: \$0.00 (Zero Dollars and Zero Cents)

4. The parties agree to comply with the terms and conditions of the following exhibits which are by this reference made a part of the Agreement:

Exhibit A Scope of Work

Exhibit B Budget Detail and Payment Provisions
Attachment 1: Budget-Contractor's Fees

Exhibit C General Terms and Conditions
Exhibit C, General Terms and Conditions, is hereby incorporated by reference and made part of this agreement as if attached hereto. The provisions of this exhibit may be viewed at www.ols.dgs.ca.gov/Standard+Language, (1) GTC-307 effective 3/28/2007 and (2) CCC-307 effective 3/28/2007.

Exhibit D Additional Terms and Conditions

Exhibit E Government Code, Section 16430

Exhibit F Resumes
Attachment 1: Resume of XXXXXXX, Trust Office Manager
Attachment 2: Resume for XXXXXXX, Assistant Trust Officer

IN WITNESS WHEREOF, this Agreement has been executed by the parties hereto.

CONTRACTOR		California Department of General Services Use Only
CONTRACTOR'S NAME (If other than an individual, state whether a corporation, partnership, etc.) XXXXXXX		
BY (Authorized Signature)	DATE SIGNED (Do not type)	
PRINTED NAME AND TITLE OF PERSON SIGNING XXXXXXX, Trust Office Manager		
ADDRESS XXXXXXX		
STATE OF CALIFORNIA		
AGENCY NAME California Business, Transportation and Housing Agency		
BY (Authorized Signature)	DATE SIGNED (Do not type)	
PRINTED NAME AND TITLE OF PERSON SIGNING XXXXXXX		<input type="checkbox"/> Exempt per _____
ADDRESS 980 Ninth Street, Suite 2450; Sacramento, CA 95814		

EXHIBIT A
SCOPE OF WORK

1. PURPOSE

WHEREAS, Corporations Code, Section 14030 established the California Small Business Expansion Fund. All or a portion of the funds in the expansion fund may be paid out, with the approval of the Department of Finance, to a lending institution or financial company that will act as trustee of the funds.

WHEREAS, Corporations Code, Section 14038 (a) authorizes that the funds in the expansion fund shall be paid out to trust fund accounts by the Treasurer on warrants drawn by the Controller and requisitioned by the office, pursuant to the purposes of this chapter. The office may transfer funds allocated from the expansion fund to accounts, established solely to receive the funds, in lending institutions designated by the office to act as trustee.

WHEREAS, the Contractor agrees to perform the trust services for the Trust Fund;

NOW THEREFORE, the parties agree as follows:

2. DEFINITION OF TERMS

Capitalized terms as used in this Agreement have the following definitions:

- A. "Agreement" refers to this Agreement, number XXXXXXX.
- B. "Contract Manager" refers to the person on behalf of the State that shall have overall responsibility to administer and evaluate the work of the Contractor during the term of this Agreement.
- C. "Contractor" means the XXXXXXX.
- D. "Corporation" means a nonprofit California small business financial development corporation as defined in Corporations Code, Section 14010(a).
- E. "DGS" means the California Department of General Services.
- F. "DVBE" means Disabled Veteran Business Enterprise.
- G. "Expiration" means the expiration, termination or cancellation of this Agreement.
- H. "Farm Service Agency" means the U.S. Department of Agriculture, Farm Service Agency.
- I. "SBLGP" means the Small Business Loan Guarantee Program.
- J. "Secretary" means the Secretary of the Business, Transportation and Housing Agency.
- K. "State" means the California Business, Transportation and Housing Agency.
- L. "Trust Fund" means the money from the expansion fund that is held in trust by a financial institution or a financial company. A trust fund is not a deposit of state funds and is not subject to the requirements of Section 16506 of the Government Code.
- M. "Trust Fund Account" means an account within the Trust Fund that is allocated to a particular small business financial development corporation for the purpose of paying loan defaults and claims on bond guarantees for a specific small business financial development corporation.

3. COMMUNICATION

- A. **Glenn Stober** shall be the Contract Manager for this Agreement.
- B. All official communications from the Contractor to the State, except as provided in paragraph 6 of Exhibit C, shall be directed to the attention of the Contract Manager or designee at the following address, voice/fax numbers or e-mail address:

California Business, Transportation and Housing Agency
Small Business Loan Guarantee Program
980 Ninth Street, Suite 2450
Sacramento, CA 95814
Voice: 916-324-9538
Fax: 916-322-5084
glenn.stober@bth.ca.gov

- C. All official communications and payments from the State to the Contractor shall be directed to the attention of **XXXXXXX, Trust Office Manager** or designee at the following address, voice/fax numbers or e-mail address:

XXXXXX
XXXXXX
XXXXXX
XXXXXX
XXXXXX
XXXXXX

4. CONTRACTOR'S RESPONSIBILITIES

A. ESTABLISHMENT OF TRUST FUND

Monies contained within the Trust Fund are transferred to the Contractor, in trust with the State as the beneficiary, for the purpose of investing such funds. The Contractor shall provide complete trust services for the Trust Fund as specified herein.

B. INVESTMENT OF THE TRUST FUND

- 1) The Trust Fund held by the Contractor shall be invested by the Contractor only in the following:
 - a) Money market mutual funds.
 - b) Investments allowed by Government Code, Section 16430 (Exhibit E), including but not limited to:
 1. U.S. Treasury notes and bills.
 2. Investments backed by the "full faith and credit" of the United States Government, except for any investments issued by Contractor, other than as set forth in paragraph 4.B.1)a of this Exhibit.
 3. Certificates of Deposits.
- 2) The State certifies that each of the investment types listed in paragraph 4.B.1 of this Exhibit is a legal investment for the Trust Fund Account, and the Contractor is authorized to rely on the State's certification as to the legality of such investment.
- 3) The Contractor shall be authorized to invest up to one third (1/3) of each Trust Fund Account, as directed by the Corporation, only in certificates of deposits which meet both of the following requirements:
 - a) They are issued by banks and savings and loans associations in which State funds may be deposited pursuant to Government Code, Section 16500.5; and,
 - b) They are insured by the an organization such as the Federal Deposit Insurance Corporation.
- 4) The total aggregate amount of certificates of deposits outstanding at any one time from any one bank or savings and loan association shall not exceed the current maximum covered by respective insurance organization. The Contractor shall not permit the one-third (1/3) investment limit described in paragraph 4.B.3 of this Exhibit to be exceeded. The State shall provide the Contractor with a list and a sample signature of each representative of each Corporation authorized to direct such investment.
- 5) In accordance with Corporations Code, Section 14070(c), the State shall authorize disbursements in writing, pursuant to paragraph 4.D.2 of this Exhibit, from the Trust Fund to purchase loans made by the Corporations. These loans are normally guaranteed by the Farm Service Agency. The Contractor shall receive instructions from the Corporations regarding disbursements, repayments and other transactions on these loans. So long

as the Corporations' instructions are within the written disbursement authorizations given by the State to the Contractor, the Contractor shall make disbursements to and receive payments from the Corporations as ordered or paid by the Corporations. The Contractor shall further maintain complete and accurate records on transactions and balances related to these individual loans, provided that the Contractor is furnished timely information from the Corporations as to all payments made and received with respect to each such loan.

- 6) All investments shall be held by the Contractor and shall be made and held on behalf of the State. The Contractor may hold securities in its own vault or the vault of its affiliate; registered in the name of its nominee or the nominee of its affiliate; or where securities are eligible for deposit in a central depository such as the Depository Trust Company and The Federal Reserve Bank of New York. The Contractor may utilize any such depository and permit the registration of registered securities in the name of its nominee, and the Contractor and the nominee shall be held harmless from any liability as holders of records.

C. REPORTS AND STATEMENTS

- 1) The Contractor shall provide to the State, within fifteen (15) days of the end of each calendar month, a report indicating the investments of each Trust Fund Account.
- 2) The report shall show the monthly beginning balance, accounts holding money market vehicle; amounts invested indicating type of investment, deposits received from the State, income and withdrawals. Additionally, the Contractor will periodically issue reports identifying the investment performance for the managed accounts.
- 3) The report shall also include such other items as may be mutually agreed upon by the parties. These items may include items of a non-custodial nature.
- 4) The Contractor's records and reports shall include loans made to the state General Fund with disbursements from the Trust Fund. Contractor will not have custody of the loan documents and will have no responsibility with respect to the loans. BTH shall provide the Contractor from time to time with all information regarding the loans, including current values, to be included in the report.

D. WITHDRAWAL OF FUNDS FROM THE TRUST FUND

- 1) Funds shall be withdrawn by the Contractor from the Trust Fund, only to fund loans as provided in paragraph 4.B.5 of this Exhibit, upon the prior written approval of authorized representatives of the State and as provided in the third sentence of this paragraph. The Contractor shall not be held liable for relying upon a request for withdrawal pursuant to a written request signed by the authorized representative of the State. Withdrawals may include payments to the Corporations for administrative expenses, loan guarantee payments and disbursements on farm loans.
- 2) Funds may be withdrawn by the State from the Trust Fund upon providing written demand to the Contractor. The written demand provided to the Contractor must be signed by at least one of the following State representatives: 1) Program Manager or 2) other fiscal officer within BTH who will identified at a later date.
- 3) The State shall provide the Contractor with signature samples of the State representatives authorized to request disbursements of Trust Fund monies.

EXHIBIT B

BUDGET DETAIL AND PAYMENT PROVISIONS

1. BUDGET CONTINGENCY CLAUSE

- A. It is mutually agreed that if the Budget Act of the current year and/or any subsequent years covered under this Agreement does not appropriate sufficient funds for this Agreement, this Agreement shall be of no further force and effect. In this event, the State shall have no liability to pay any funds whatsoever to the Contractor or to furnish any other considerations under this Agreement and the Contractor shall not be obligated to perform any provisions of this Agreement.
- B. If funding for any fiscal year is reduced or deleted by the Budget Act for purposes of this Agreement, the State shall have the option to either cancel this Agreement with no liability occurring to the State, or offer an amendment to this Agreement to the Contractor to reflect the reduced amount.

2. BUDGET REQUIREMENTS

- A. State resources, not to exceed the Agreement amount, shall constitute the maximum liability of the State to support the Contractor under this Agreement as specified in Attachment 1 of this Exhibit.
- B. The consideration to be paid the Contractor, as specified in Attachment 1 of this Exhibit, shall be compensation for all of the Contractor's expenses pursuant to this Agreement, including, but not limited to, labor, employee fringe benefits, operating expenses, overhead, employer taxes and insurance, subcontracting services, out-of-pocket expenses for travel and subsistence, and taxes due on equipment.
- C. The Contractor shall not receive additional compensation for reimbursement or for costs not identified in Attachment 1 of this Exhibit and shall not decrease the work to compensate therefore.

3. INVOICING AND PAYMENT

- A. In no event shall the Contractor charge fees to the State for obligations entered into or for costs incurred prior to the commencement date or after the Expiration of this Agreement.
- B. For services satisfactorily rendered, and upon the State's receipt and approval of the invoices, the State agrees to compensate the Contractor for actual expenditures incurred in accordance with the Contractor Fee specified in Attachment 1 of this Exhibit.
- C. The Contractor may submit, in arrears, not more than quarterly, an invoice to the State. The invoice shall be consistent with the amounts determined by Attachment 1 of this Exhibit. Requests for Contractor's fees shall be substantiated by supplying the State with the supporting documentation as required by paragraph 4.C of Exhibit A. The State agrees to make payment as promptly as fiscal procedures permit, subject to approval of the Contract Manager.
- D. Invoices shall be submitted to:

Glenn Stober
California Business, Transportation and Housing Agency
Small Business Loan Guarantee Program
980 Ninth Street, Suite 2450
Sacramento, CA 95814

- E. The invoice containing the final costs to be paid by the State shall be identified as the "final invoice." The final invoice shall be delivered to the State not more than thirty (30) calendar days following the Expiration of this Agreement. Payment of the final invoice shall be based upon completion of the following:
 - 1) Satisfactory completion of this Agreement;
 - 2) Compliance with paragraph 4 of Exhibit A; and,
 - 3) Submittal to the Contract Manager of:
 - a) All reports and documentation required in this Agreement; and,

b) The Recycling Certification, as described in paragraph 9 of Exhibit C.

- F. "Satisfactory completion" as used in this Agreement means that the Contractor has complied with all terms, conditions and performance requirements of this Agreement.
- G. The State agrees to make payment as promptly as fiscal procedures permit, upon receipt of the invoice, subject to approval of the Contract Manager, and contingent upon satisfactory completion of the terms of this Agreement.
- H. All payments received under this Agreement shall be used solely for the purpose of providing goods or services under this Agreement. The State shall have final determination of allowable and reimbursable costs under this Agreement. The State may require documentation substantiating expenses as deemed appropriate by the Contract Manager.

4. MISCELLANEOUS PAYMENT

The Contractor shall not use State funds allocated under this Agreement for any of the following purposes:

- A. Travel;
- B. Entertainment expenses;
- C. Professional dues for the Contractor's staff or officials; and,
- D. Purchase, construction, renovation, alteration, improvement, or repair of capital assets, such as real estate and vehicles.

5. PROMPT PAYMENT CLAUSE

Payment will be made in accordance with, and within the time specified in, Government Code, Title 1, Chapter 4.5 commencing with Section 927.

EXHIBIT B

ATTACHMENT 1

BUDGET-CONTRACTOR'S FEES

1. The total Contractor fee for performing the services specified in Exhibit A of this Agreement shall be calculated on the aggregate value of the assets held in the Trust Fund Accounts at the close of each calendar quarter, including income that has been retained and reinvested, and shall be consistent with paragraph 4.B of Exhibit A. Payment shall be made pursuant to paragraphs 2 and 3 of Exhibit B.
2. The Contractor fee shall be calculated at the quarterly rate of XXXX of 1.0% of the value of the assets, as that term is defined in paragraph 1 of this exhibit attachment, in the Trust Fund Accounts.
3. The Contractor fee provisions shall not be increased or decreased without an amendment to this Agreement.

EXHIBIT C

GENERAL TERMS AND CONDITIONS

Exhibit C, General Terms and Conditions, is hereby incorporated by reference and made part of this agreement as if attached hereto. The provisions of this exhibit may be viewed at www.ols.dgs.ca.gov/Standard+Language, (1) GTC-307 effective 3/28/2007 and (2) CCC-307 effective 3/28/2007.

SAMPLE

EXHIBIT D

ADDITIONAL TERMS AND CONDITIONS

1. EQUIPMENT

The Contractor shall not use State funds allocated under this Agreement to purchase equipment. As used in this paragraph, "equipment" means an article of nonexpendable, tangible personal property, including furniture, having a useful life of at least one (1) year and a unit acquisition cost of at least five thousand dollars (\$5,000).

2. ACCOUNTING REQUIREMENTS

The Contractor hereby certifies that its accounting system is in accordance with Generally Accepted Accounting Principles and practices, consistently applied, and capable of identifying all eligible and ineligible costs associated with this Agreement.

3. PURCHASE ORDERS AND SUBCONTRACTING PROVISIONS

- A. The Contractor is encouraged to take advantage of vendor discounts whenever possible and to utilize the services of small businesses, micro-businesses, and disabled veteran business enterprises when subcontracting for goods or services.
- B. Nothing contained in this Agreement or otherwise, shall create any contractual relation between the State and any subcontractors, and no subcontract shall relieve the Contractor of his responsibilities and obligations hereunder. The Contractor agrees to be as fully responsible to the State for the acts and omissions of its subcontractors and of persons either directly or indirectly employed by any of them as it is for the acts and omissions of persons directly employed by the Contractor. The Contractor's obligation to pay its subcontractors is an independent obligation from the State's obligation to make payments to the Contractor. As a result, the State shall have no obligation to pay or to enforce the payment of any moneys to any subcontractor.
- C. The Contractor is entitled to make use of its own staff and such subcontractors as are mutually acceptable to the Contractor and the State. All agreements between the Contractor and the subcontractor are subject to prior approval by the Contract Manager.
- D. The Contractor shall obtain three (3) competitive bids on each purchase order and subcontract over five thousand dollars (\$5,000) unless the Contractor justifies why three bids were not obtained. Purchase orders and subcontracts shall not be divided to avoid compliance with this requirement.
- E. The Contractor must obtain prior written approval from the State for any purchase order or subcontract for any supplies or services in excess of two thousand, five hundred dollars (\$2,500) to be paid for with State funds. The Contractor shall include in its request for authorization a copy of any subcontract and/or purchase order and all particulars necessary for evaluation, including:
 - 1) The necessity of incurring the cost;
 - 2) The reasonableness of the cost; and,
 - 3) Evidence of compliance with one of the following by the Contractor:
 - a) Obtained three (3) competitive bids and, of the most responsive, has selected the least expensive;
 - b) Selected the subcontractor based upon the Contractor's contracting procedures used for awarding subcontracts; or,
 - c) Has justified why three (3) bids were not obtained.
- F. All agreements with subcontractors shall contain all the provisions of paragraphs 5 and 11 of Exhibit C.
- G. Agreements with subcontractors that involve the expenditure of State funds in excess of ten thousand dollars (\$10,000) shall contain the provisions of paragraphs 4 of Exhibit C.
- H. Agreements with subcontractors which include consultant services shall contain all the provisions of paragraph 4 of this Exhibit.

- I. Strict adherence to software license agreement(s) must be applied for all software purchased with State funds under this Agreement or supplied by the State. Proprietary software cannot be duplicated, modified or used on more than one machine, except as expressly provided for in the manufacturer's license agreement. Violation of the manufacturer's license agreement shall constitute grounds for cancellation of this Agreement.
- J. Any publication resulting from this Agreement shall include an acknowledgment of support by the California Business, Transportation and Housing Agency. Except for scientific articles and papers appearing in scientific journals, materials must also contain the following disclaimer: "Any opinions, findings, conclusions, or recommendations expressed in this publication are those of the author(s) and do not necessarily reflect the views of the State of California."

4. CONSULTANT SERVICES

In the event the Contractor utilizes the services of a consultant who provides professional or technical advice or a recommended course of action, the Contractor shall advise the consultant of the following:

- A. The Contractor shall advise all consultants of their duties, obligations and rights under Public Contract Code, Section 10335.5. In the event of a dispute between the Contractor and the consultant the matter shall be settled by an arbitrator mutually agreed upon by the Contractor and the consultant, and this requirement shall be added to all contracts for consultant services.
- B. The consultant's key personnel assigned to perform work under this Agreement and their level of responsibility shall be mutually acceptable to the Contractor and State.
- C. The consultant shall supply to the Contractor one copy of a resume for each employee and/or subcontractor who will exercise a major administrative, policy or consultative role on behalf of the Contractor. Each resume shall become an official attachment to the agreement between the Contractor and the consultant and shall be made available to the State upon request.
- D. The consultant shall provide a series of progress reports in the manner stipulated by the Contractor.
- E. Upon Expiration of this Agreement, the consultant shall submit to the Contractor a comprehensive final report and, if required by the Contractor or the State, schedule a final meeting with the Contractor or the State, and this requirement shall be added to all contracts for consultant services.

5. EVALUATION OF CONTRACTOR'S PERFORMANCE

The Contractor is hereby notified that its performance under this Agreement may be evaluated within thirty (30) calendar days following the Expiration of this Agreement. The evaluation may include statements on the adequacy of the service or the product, whether the service was satisfactory, whether the service or the product was provided or completed within the time limitations, reasons for time or cost overruns, whether the product is operational or being utilized by the State, and/or the State plans for implementation, and the State's general impression as to the competency of the Contractor and its staff. The evaluation shall be filed in the State's official Contractor Evaluation File.

6. COMPUTER SOFTWARE

The Contractor certifies that she/he has appropriate systems and controls in place to ensure that State funds will not be used in the performance of this Agreement for the acquisition, operation or maintenance of computer software in violation of copyright laws.

7. DISABLED VETERAN BUSINESS ENTERPRISE PARTICIPATION PROGRAM

- A. Pursuant to Public Contract Code, Section 10115 et seq., the Disabled Veteran Business Enterprise Participation Program requires that all State contracts have a participation goal of three percent (3%) of the total contract amount to DVBEs for services, equipment and/or supplies. DVBEs must be certified with the Office of Small Business Certification and Resources to claim DVBE eligibility.
- B. The Contractor shall either:
 - 1) Meet the DVBE participation goal and submit certification of DVBEs to the State; or,
 - 2) Demonstrate a good faith effort to achieve the participation goal to the satisfaction of the State.

- C. DVBE Certifications and a good faith effort achieve the participation goal shall be governed by the standards set forth in Public Contract Code, Section 10115 et seq., and California Code of Regulations, Title 2, Section 1896.60 et seq. No substitution for previously certified DVBE subcontractors may be made without advance written permission from the State.
- D. In the event this Agreement is amended to increase the total Agreement amount, the Contractor shall comply with the requirement(s) identified in paragraph 7.B. of this Exhibit for the amended amount.

8. INCORPORATION OF PROPOSAL OR BID

The Contractor's proposal or bid is not attached hereto, but is expressly incorporated by reference into this Agreement. In the event of conflict or inconsistency between the terms of this Agreement and the Contractor's proposal or bid, this Agreement shall be controlling.

6. RESOLUTION OF DISPUTES

- A. If the Contractor disputes any action by the Contract Manager arising under or out of the performance of this Agreement, the dispute shall be addressed as follows:
 - 1) The Contractor shall notify in writing the Contract Manager within fifteen (15) calendar days of the Contract Manager's action and request reconsideration.
 - 2) The Contract Manager shall issue a written decision within fifteen (15) calendar days following the receipt of the Contractor's notice.
 - 3) If the Contractor disagrees with the Contract Manager's written decision, the Contractor shall submit a formal request for reconsideration to the Secretary overseeing the Small Business Loan Guarantee Program within fifteen (15) calendar days of the receipt of the Contract Manager's written decision.
 - 4) The Secretary or designee shall issue the final administrative decision within thirty (30) calendar days of the receipt of the Contractor's formal request for reconsideration.
- B. The decision of the Secretary or designee shall be the final administrative review and shall be conclusive on the dispute at the State level. The decision by the Secretary may encompass facts, interpretations of this Agreement, and determinations or applications of law. The decision shall be in writing following an opportunity for the Contractor to present documentary evidence and written arguments in support of the matter.
- C. The Contractor shall continue with the responsibilities under this Agreement during any dispute until the Expiration of this Agreement unless instructed otherwise by the State.

8. CANCELLATION PROVISIONS

- A. This Agreement may be canceled at any time by either party in writing with thirty (30) calendar days advance notice. If canceled:
 - 1) The Contractor shall provide to the State, at the State's discretion, all work performed through the date of cancellation within thirty (30) calendar days of the cancellation date; and,
 - 2) Final payment shall be made to the Contractor only for performance and costs authorized up to the date of cancellation upon receipt of the final invoice.
- B. Notwithstanding paragraph 8.A. of this Exhibit, the State may cancel this Agreement verbally in whole or part and later follow-up with written confirmation, giving the Contractor less than thirty (30) calendar days advance notice if:
 - 1) Full funding is not available for all of the project work outlined in paragraph 4 of Exhibit A; or,
 - 2) Serious defaults in either the Contractor's performance or compliance with the terms of this Agreement are detected. "Serious default in performance" means the failure to comply with the terms and/or requirements of this Agreement.

19. UNION ORGANIZING

By signing this Agreement, the Contractor hereby acknowledges the applicability of Government Code, Sections 16645 through 16649 to this Agreement.

- A. The Contractor will not assist, promote or deter union organizing by employees performing work on this Agreement.

- B. No State funds received under this Agreement will be used to assist, promote or deter union organizing.
- C. The Contractor will not, for any business conducted under this Agreement, use any state property to hold meetings with employees or supervisors, if the purpose of such meetings is to assist, promote or deter union organizing, unless the state property is equally available to the general public for holding meetings.
- D. If the Contractor incurs costs, or makes expenditures to assist, promote or deter union organizing, the Contractor will maintain records sufficient to show that no reimbursement from State funds has been sought for these costs, and the Contractor shall provide those records to the Attorney General upon request.

20. FORCE MAJEURE

Neither the Contractor nor the State shall be liable to the other for any delay in or failure of performance, nor shall any such delay in or failure of performance constitute default, if such delay or failure is caused by "Force Majeure." As used in this paragraph, "Force Majeure" is defined as follows: Acts of war and acts of god such as earthquakes, floods, and other natural disasters such that performance is impossible.

EXHIBIT F

RESUMES

Exhibit F - Resumes, Attachment 1 consists of the resume for XXXXXXXX; Trust Office Manager.
Exhibit F - Resumes, Attachment 2 consists of the resume for XXXXXXXX, Assistant Trust Officer.

SAMPLE

EXHIBIT F

RESUMES

ATTACHMENT 1: XXXXXXX

**PLACEHOLDER
FOR
COPY
OF
XXXXXX'S RESUME
(MANUAL INSERT)**

SAMPLE

EXHIBIT F

RESUMES

ATTACHMENT 2: XXXXXXX

**PLACEHOLDER
FOR
COPY
OF
XXXXXX'S RESUME
(MANUAL INSERT)**

SAMPLE